



**U.S. Department of Justice**

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March 28, 2024

The Honorable J.P. Stadtmueller  
United States District Judge  
United States Courthouse  
517 East Wisconsin Avenue  
Milwaukee, WI 53202

Re: *United States of America v. Kevin P. O'Neill*  
Case No.: 97-CR-98

Dear Judge Stadtmueller:

The purpose of this letter is to provide, in connection with the defendant's pending motion under Section 3582(c)(1)(A), supplemental authority in further support of the government's position that non-retroactive changes in the law cannot be deemed "extraordinary and compelling" for purposes of the statute, notwithstanding newly-amended Guideline Section 1B1.13(b)(6). In *United States v. Black*, 2024 WL 449940 (N.D. Ill. Feb. 6, 2024), U.S. District Judge Lindsay C. Jenkins concluded that the Seventh Circuit's decision in *United States v. Thacker*, 4 F.4<sup>th</sup> 569 (7<sup>th</sup> Cir. 2021), rather than the amended guideline, is controlling on this question. Although the government does not agree with Judge Jenkins that Section 3582(c) is ambiguous, such that "Chevron deference" analysis is necessary, the government does agree with the bottom line in *Black*, which is that *Thacker* is binding on district courts in this circuit.

Thank you for considering this supplemental authority in connection with defendant's pending motion.

Very truly yours,

GREGORY J. HAANSTAD  
United States Attorney

By: *s/Jonathan H. Koenig*

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